

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 528 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and  
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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AHMEDABAD MUNICIPAL CORPN.

Versus

ANAND CHAMBERS ASSOCIATION  
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CORAM : MR.JUSTICE M.R.CALLA and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 13/04/99

ORAL JUDGEMENT

Mr.Maulin Raval for the appellant Municipal Corporation. No one is present on behalf of the respondent despite service.

2. This appeal under Section 411 of the B.P.M.C. Act is directed against the order dated 6.9.1988 passed in M.V. Appeal No.8020 of 1987 by the Small Causes Court, at Ahmedabad, whereby the Small Causes Court has reduced the Gross Rateable Value of the premises in question to Rs.1,752/- only as against the Gross Rateable Value

assessed by the Municipal Corporation at Rs.11,700/-.

3. The premises in question is situated on 3rd floor having the area of 264 sq.ft. as a part of Survey No.258/A/307 of Ellis Bridge Ward-A/1, Anand Chambers, near Stadium. The respondent is the owner and the premises is self-occupied. The Small Causes Court has mentioned in the impugned order that considering the area, user and locality and after hearing both the learned Advocates, reasonable letting rate is fixed at 70 ps. per sq.ft. for ground floor, 65 ps. per sq.ft. for first floor, 60 ps. per sq.ft. for second floor, 55 ps. per sq.ft. for third floor, and 40 ps. per sq.ft. for the cellar. It has been then mentioned that at the rate of 55 ps. per sq.ft. monthly rent for the premises in question would be Rs.146/- and the Gross Rateable Value has been fixed by the Small Causes Court at Rs.1,752/-. The Small Causes Court has not held that the basis on which the Gross Rateable Value had been arrived at by the Municipal Corporation was excessive or disproportionate. In such matters, for the purpose of determining the Gross Rateable Value regarding letting rate, it should be on the basis of expert evidence or on the basis of contractual rent, if any. If the premises is self-occupied, no authority or Court can proceed to determine the Gross Rateable Value simply by saying that considering the area, user and locality, the letting rate is fixed at certain amount. The order passed by the Small Causes Court makes it amply clear that it lacks the application of mind and the necessary norms and the principles which are relevant for the purpose of determining the Gross Rateable Value have not been considered. The Small Causes Court has not addressed itself to the grounds which are germane for the purpose of determining the Gross Rateable Value. No reason has been given and no reference has been made to any material whatsoever in the impugned order on the basis of which it could be said that the Gross Rateable Value fixed by the Municipal Corporation at Rs.11,700/- was excessive or disproportionate. We find that the assessment as made by the Municipal Corporation has been reduced to a considerable extent by the Small Causes Court although there was no material to reduce the same to such an extent.

4. In the facts and circumstances of this case, we find that the impugned order dated 6.9.1988 passed in M.V. Appeal No.8020 of 1987 by the Small Causes Court at Ahmedabad, cannot be sustained in the eye of law. The same is hereby quashed and set aside. This Appeal is allowed and the assessment as had been made by the

Municipal Corporation stands restored. No order as to costs.

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